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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

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7 JOSEPH ALEXANDER MERVIS,

Case No. 2:17-cv-02605-JCM-NJK

8 Plaintiff,

ORDER

9 v.

(Emg Mot Vacate ENE – ECF No. 11)

10 MGM INTERNATIONAL,

11 Defendant.

12 Before the court is defendant's Emergency Request to Vacate the Early Neutral Evaluation  
13 Scheduled for December 27, 2017 (ECF No. 11). This is an employment case arising out of  
14 plaintiff's employment by Aria Hotel and Casino in Las Vegas. It was automatically referred to  
15 the court's Early Neutral Evaluation Program upon transfer. The motion requests that the court  
16 vacate the ENE for several reasons. First, defendant believes that its motion to dismiss will be  
17 granted on the merits and because plaintiff has not filed an opposition. The motion to dismiss  
18 argues that MGM Resorts was not plaintiff's employer, that plaintiff failed to exhaust  
19 administrative remedies before filing this complaint, and that plaintiff has no timely viable claims.  
20 Second, this case was initially filed in the Northern District of Ohio where it was *sua sponte*  
21 transferred to this district. Plaintiff is a resident of Ohio, is representing himself, and has had no  
22 contact with defense counsel. Requiring him to fly to Las Vegas for an ENE would be expensive  
23 and premature. As such, defendant requests that the ENE be vacated until after ruling on the  
24 motion to dismiss.

25 Having reviewed and considered the matter,

26 **IT IS ORDERED** that:

- 27 1. The ENE set for December 27, 2017 at 9:30 a.m., is **VACATED**, and will reset after  
28 ruling on the motion to dismiss if any claim survives.

2. In the event any claim survives, the parties shall submit a joint status report no later than 14 days after decision of the pending motion to dismiss providing available dates for an ENE.

DATED this 7th day of December, 2017.

  
PEGGY A. LEEN  
UNITED STATES MAGISTRATE JUDGE